

# penrose academy

## TITLE IX SEX-BASED DISCRIMINATION

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### **NONDISCRIMINATION STATEMENT**

Penrose Academy does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates. Individuals may report concerns or questions to the Title IX Coordinator. The notice of nondiscrimination is located at [penrose.edu](https://penrose.edu).

### **NOTICE OF NONDISCRIMINATION**

Penrose Academy does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admissions and employment.

Inquiries about Title IX may be referred to Penrose Academy's Title IX Coordinator, the U.S. Department of Education's, [Office for Civil Rights](#), or both. The Title IX Coordinator at Penrose Academy is Missy Conti, Director of Education. Penrose Academy's Deputy Title IX Coordinators are Andria Young, Director of Student Services, Haleigh Trout, Assistant Director of Education, and Steffi Toth, Education Manager, located at 13402 N Scottsdale Road, Suite B-160. They can be contacted via email at [Penrose Compliance](#) or by phone at (480) 222-9540 ext. 204.

Penrose Academy's nondiscrimination policy and grievance procedures can be located at [penrose.edu/consumer-disclosures](https://penrose.edu/consumer-disclosures).

To report information about conduct that may constitute sex discrimination or make a complaint of sex discrimination under Title IX, please refer to The Title IX Coordinator located at 13402 N Scottsdale Road, Suite B-160. They can be contacted via email at [Penrose Compliance](#) or by phone at (480) 222-9540 ext. 204.

### **POLICY STATEMENT**

Conduct prohibited by this Policy may also violate Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act of 1964, as well as other applicable federal and state laws. It is the responsibility of Penrose Academy's Title IX Coordinator to ensure that Penrose Academy meets its obligations under Title IX. Title IX is a civil rights law that prohibits discrimination on the basis of sex, gender identity, and/or sexual orientation in public and private educational institutions that receive federal funds. Because Penrose Academy is a recipient of Federal funds, Penrose Academy must fully comply with the provisions of Title IX and its regulations.

### **PURPOSE**

To establish Penrose Academy's policy prohibiting sexual harassment and misconduct, including acts of sexual violence, domestic violence, dating violence, and stalking, in accordance with Title IX of the Education Amendments of 1972 ("Title IX"). This Policy also references other Penrose Academy policies that may be relevant to disciplinary procedures for conduct outside its scope.

### **POLICY SCOPE**

This Policy applies to all students, faculty, staff, affiliates, and others involved in or attempting to participate in Penrose Academy's programs and activities. It covers conduct within the United States, on campus, or in off-campus Academy-sanctioned programs or activities.

## PROHIBITED SEX-BASED DISCRIMINATION

**Sex-Based Harassment** is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity, that is:

- 1) **Unwelcome Conduct** determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to Penrose Academy's Education Program or Activity. Such conduct may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature, sexual exploitation sexual coercion, sexual touching, and fondling, the touching of an unwilling person's intimate parts, and forcing an unwilling person to touch another's intimate parts.
- 2) **Quid Pro Quo Harassment.** An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct;
- 3) **VAWA Offenses.** Domestic violence, dating violence, sexual assault, and stalking. (as defined in VAWA -34 U.S.C. § 12291)
  - i. **Sexual Assault** meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation;
  - ii. **Dating Violence** means violence committed by a person:
    - a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
    - b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:
      1. The length of the relationship;
      2. The type of relationship; and
      3. The frequency of interaction between the persons involved in the relationship;
  - iii. **Domestic Violence** meaning felony or misdemeanor crimes committed by a person who:
    - a) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;
    - b) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
    - c) Shares a child in common with the victim; or
    - d) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction; or
  - iv. **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
    - a) Fear for the person's safety or the safety of others; or
    - b) Suffer substantial emotional distress.
- 4) **Sexual Misconduct Offenses:**
  - Actions that constitute sexual misconduct include, but are not limited to, inappropriate comments, jokes, gestures, and the posting of images. This conduct is defined as any unwanted and distressful behavior that is sexual in nature, including harassment, bullying, or victimization.
- 5) **Nonconsensual Sexual Contact.** Intentional sexual touching of another's private areas without consent. This includes touching the breasts, buttocks, groin, or genitals, or making someone touch you or themselves in these areas.
- 6) **Nonconsensual Sexual Intercourse.** Any form of sexual penetration without consent.
- 7) **Hostile Environment Harassment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (*i.e.*, creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- i. The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
- ii. The type, frequency, and duration of the conduct;
- iii. The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;
- iv. The location of the conduct and the context in which the conduct occurred; and
- v. Other sex-based harassment in the recipient's education program or activity.

Penrose Academy will provide regular, mandatory training for all employees related to issues covered under this Policy. All Penrose Academy's employees are required to complete Title IX training within the first 30 days of employment. In addition, all employees will be required to complete an annual Title IX Training as a reminder of reporting requirements and procedures.

### **GENERAL PARDON FOR STUDENTS**

Penrose Academy encourages students to report Title IX violations. Students who responsibly report such incidents will typically not face disciplinary action for their own drug or alcohol use related to the reported incident.

### **RETALIATION PROHIBITED AND CORRECTIVE ACTION**

This Policy prohibits intimidation, threats, coercion, and discrimination to interfere with any Title IX right or because someone reported or participated in a Title IX process.

The Title IX Coordinator at Penrose Academy will ensure prompt corrective action if retaliation occurs, the complainant faces further violations, or the respondent's sanctions are ineffective. The Coordinator will also work to eliminate any hostile environment, including overseeing training and distributing information.

### **FALSE REPORTS**

Willfully making a false report of Title IX Prohibited Conduct is a serious violation of Penrose Academy's Policy. Anyone who intentionally makes or helps make a false report may face disciplinary action. Additionally, false reporting can violate state criminal laws and civil defamation laws.

### **GRIEVANCE PROCEDURES FOR COMPLAINTS OF SEX-BASED HARASSMENT**

Penrose Academy has adopted Title IX grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals who are participating or attempting to participate in its education program or activity, or by the Title IX Coordinator. These grievance procedures address complaints of sex-based harassment that involve a student party.

#### **Complaints:**

The following people have a right to make a complaint of sex-based harassment, requesting that Penrose Academy investigate and make a determination about alleged sex-based harassment under Title IX:

- A "complainant," which includes:
  - a student or employee of Penrose Academy who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX; or
  - a person other than a student or employee of Penrose Academy who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX at a time when that individual was participating or attempting to participate in Penrose Academy's education program or activity;

- A parent, guardian, or other authorized legal representative with the legal right to act on behalf of a complainant;
- Penrose Academy's Title IX Coordinator.

Note that a person is entitled to make a complaint of sex-based harassment only if they themselves are alleged to have been subjected to the sex-based harassment, if they have a legal right to act on behalf of such person, or if the Title IX Coordinator initiates a complaint consistent with the requirements of 34 C.F.R. § 106.44(f)(1)(v).

Penrose Academy may consolidate complaints of sex discrimination against more than one respondent, or by more than one complainant against one or more respondents, or by one party against another party, when the allegations of sex discrimination arise out of the same facts or circumstances. When more than one complainant or more than one respondent is involved, references below to a party, complainant, or respondent include the plural, as applicable.

**Requirements of Title IX Grievance Procedures:**

Penrose Academy will treat complainants and respondents equitably.

Penrose Academy requires that any Title IX Coordinator, investigator, or decisionmaker not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. As long as there is no conflict of interest or bias, a decisionmaker may be the same person as the Title IX Coordinator or investigator.

Penrose Academy presumes that the respondent is not responsible for the alleged sex discrimination until a determination is made at the conclusion of its grievance procedures.

Penrose Academy has established the following timeframes for the major stages of the grievance procedures:

- 1) **Evaluation of Complaint – Five (5) Days**
  - Decision whether to dismiss or investigate the complaint.
- 2) **Investigation – 15 Days**
  - Question the Parties and Witnesses.
  - Gather sufficient evidence.
  - Analyze and determine relevant and impermissible evidence.
  - Provide parties with access to relevant evidence.
- 3) **Determination – 5 Days**
  - Notify the parties simultaneously in writing of the determination whether sex-based harassment occurred under Title IX.
- 4) **Appeal (if any) – 30 Days**
  - The complainant or respondent has 30 days to file an appeal. Appeals filed after 30 days will no longer be considered timely.

Penrose Academy has also established the following process that allows for the reasonable extension of timeframes on a case-by-case basis for good cause with written notice of any extension to the parties that includes the reason for the delay:

**Process for Extension of Timeframes**

### 1) **Identify the Need for an Extension**

- Initiation: The need for an extension can be identified by any party involved in the process.
- Criteria for Good Cause: Good cause may include medical emergencies, unforeseen personal circumstances, technical issues, or other significant barriers.

### 2) **Submit a Request for Extension**

- Submit a written request to the title IX Coordinator for an extension, including a reason for the request and the requested new timeframe.
- Submit substantiated documentation to support the extension request. (e.g., doctor's note, official notices, etc.).

### 3) **Review and Decision Making**

- The Title IX Coordinator will review the extension request promptly. The request will be evaluated on the legitimacy of the reason, impact on the overall timeframe, and previous extension granted to the party.
- Decisions on extension requests will be made within three (3) days.

### 4) **Notification of Decision**

- The Title IX Coordinator will provide written notice of the decision to all relevant parties. This notice will include:
  - Whether the extension was granted or denied.
  - The new deadline if the extension is granted.
  - The specific reason(s) for the decision.

Penrose Academy will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses; consult with their family members, confidential resources, or advisors; or otherwise prepare for or participate in the grievance procedures. The parties cannot engage in retaliation, including against witnesses.

Penrose Academy will objectively evaluate all evidence that is relevant and not otherwise impermissible—including both inculpatory and exculpatory evidence. Credibility determinations will not be based on a person's status as a complainant, respondent, or witness.

The following types of evidence, and questions seeking that evidence, are impermissible (i.e., will not be accessed or considered, except by Penrose Academy to determine whether one of the exceptions listed below applies; will not be disclosed; and will not otherwise be used), regardless of whether they are relevant:

- Evidence that is protected under a privilege recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless Penrose Academy obtains that party's or witness's voluntary, written consent for use in its grievance procedures; and
- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to

the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

**Written Notice of Allegations:**

Upon initiation of these Title IX grievance procedures, Penrose Academy will notify the parties in writing of the following with sufficient time for the parties to prepare a response before any initial interview:

- Penrose Academy's Title IX grievance procedures and any informal resolution process;
- Sufficient information available at the time to allow the parties to respond to the allegations, including the identities of the parties involved in the incident(s), the conduct alleged to constitute sex-based harassment, and the date(s) and location(s) of the alleged incident(s);
- Retaliation is prohibited;
- The respondent is presumed not responsible for the alleged sex-based harassment until a determination is made at the conclusion of the grievance procedures. Prior to such a determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decisionmaker;
- The parties may have an advisor of their choice who may be, but is not required to be, an attorney;
- The parties are entitled to an equal opportunity to access the relevant and not otherwise impermissible evidence or an investigative report that accurately summarizes this evidence.
- Penrose Academy's Code of Conduct prohibits knowingly making false statements or knowingly submitting false information during grievance procedures, as described in section eight of the student catalog under the Student Code of Conduct policy.

If, in the course of an investigation, Penrose Academy decides to investigate additional allegations of sex-based harassment by the respondent toward the complainant that are not included in the written notice or that are included in a consolidated complaint, it will provide written notice of the additional allegations to the parties.

**Dismissal of a Complaint:**

Penrose Academy may dismiss a complaint if:

- Penrose Academy is unable to identify the respondent after taking reasonable steps to do so;
- The respondent is not participating in Penrose Academy's education program or activity and is not employed by Penrose Academy;
- Penrose Academy obtains the complainant's voluntary withdrawal in writing of any or all of the allegations, the Title IX Coordinator declines to initiate a complaint, and Penrose Academy determines that, without the complainant's withdrawn allegations, the conduct that remains alleged in the complaint, if any, would not constitute sex discrimination under Title IX even if proven; or

- Penrose Academy determines the conduct alleged in the complaint, even if proven, would not constitute sex discrimination under Title IX. Before dismissing the complaint, Penrose Academy will make reasonable efforts to clarify the allegations with the complainant.

Upon dismissal, Penrose Academy will promptly notify the complainant in writing of the basis for the dismissal. If the dismissal occurs after the respondent has been notified of the allegations, then Penrose Academy will notify the parties simultaneously in writing.

Penrose Academy will notify the complainant that a dismissal may be appealed on the bases outlined in the *Appeals* section. If dismissal occurs after the respondent has been notified of the allegations, then Penrose Academy will also notify the respondent that the dismissal may be appealed on the same bases. If a dismissal is appealed, Penrose Academy will follow the procedures outlined in the *Appeals* section.

When a complaint is dismissed, Penrose Academy will, at a minimum:

- Offer supportive measures to the complainant as appropriate;
- If the respondent has been notified of the allegations, offer supportive measures to the respondent as appropriate; and
- Take other prompt and effective steps, as appropriate, through the Title IX Coordinator to ensure that sex discrimination does not continue or recur within Penrose Academy's education program or activity.

#### **Investigation:**

Penrose Academy will provide for adequate, reliable, and impartial investigation of complaints. The burden is on Penrose Academy—not on the parties—to conduct an investigation that gathers sufficient evidence to determine whether sex discrimination occurred.

Penrose Academy will provide a party whose participation is invited or expected with written notice of the date, time, location, participants, and purpose of all meetings or proceedings with sufficient time for the party to prepare to participate.

Penrose Academy will provide the parties with the same opportunities to be accompanied to any meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- Penrose Academy will not limit the choice or presence of the advisor for the complainant or respondent in any meeting or proceeding.
- Penrose Academy may establish restrictions regarding the extent to which the advisor may participate in these grievance procedures, as long as the restrictions apply equally to the parties.

Penrose Academy will provide the parties with the same opportunities, if any, to have people other than the advisor of the parties' choice present during any meeting or proceeding.

Penrose Academy will provide an equal opportunity for the parties to present fact witnesses and other inculpatory and exculpatory evidence that are relevant and not otherwise impermissible.

Penrose Academy will review all evidence gathered through the investigation and determine what evidence is relevant and what evidence is impermissible regardless of relevance.

Penrose Academy will provide each party and the party's advisor, if any, with an equal opportunity to access the evidence that is relevant to the allegations of sex-based harassment and not otherwise impermissible, in the following manner:

- Penrose Academy will provide an equal opportunity to access either the relevant and not otherwise impermissible evidence, or the same written investigative report that accurately summarizes this evidence.
- Penrose Academy will take reasonable steps to prevent and address the parties' and their advisors' unauthorized disclosure of information and evidence obtained solely through the sex-based harassment grievance procedures.

Penrose Academy will provide a process that enables the decisionmaker to question parties and witnesses to adequately assess a party's or witness's credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex-based harassment.

Penrose Academy's process for proposing and asking relevant and not otherwise impermissible questions and follow-up questions of parties and witnesses, including questions challenging credibility, will:

- Allow the investigator or decisionmaker to ask such questions during individual meetings with a party or witness;
- Allow each party to propose such questions that the party wants asked of any party or witness and have those questions asked by the investigator or decisionmaker during one or more individual meetings, including follow-up meetings, with a party or witness, subject to the procedures for evaluating and limiting questions discussed below; and
- Provide each party with an audio or audiovisual recording or transcript with enough time for the party to have a reasonable opportunity to propose follow-up questions.]

### **Determination of Whether Sex-Based Harassment Occurred**

Following an investigation and evaluation of all relevant and permissible evidence, Penrose Academy will:

- Use a clear and convincing standard of proof to determine if sex discrimination occurred. This standard requires the decisionmaker to evaluate evidence for its persuasiveness. If the decisionmaker is not convinced by the evidence, regardless of its quantity, they will not determine that sex discrimination occurred.
- Notify the parties simultaneously in writing of the determination regarding sex-based harassment under Title IX, including:
  - A description of the alleged sex-based harassment;
  - Information about the policies and procedures used to evaluate the allegations;
  - The decisionmaker's evaluation of the relevant evidence and determination of whether sex-based harassment occurred;
  - Any disciplinary sanctions to be imposed on the respondent if harassment is found, remedies provided to the complainant, and, if appropriate, to other affected students;
  - Procedures and permissible bases for appeal by the complainant and respondent.

- Only impose disciplinary sanctions on a respondent for sex discrimination if there is a determination, after the Title IX grievance procedures, that the respondent engaged in prohibited sex discrimination.
- If sex discrimination is determined to have occurred, the Title IX Coordinator will:
  - Coordinate the provision and implementation of remedies for the complainant and others identified as affected by the discrimination;
  - Coordinate the imposition of any disciplinary sanctions on the respondent, including notifying the complainant of such sanctions;
  - Take appropriate steps to ensure that sex discrimination does not continue or recur within Penrose Academy's education program or activities.
- Comply with the Title IX grievance procedures before imposing any disciplinary sanctions against a respondent.
- Not discipline any party, witness, or others participating in the Title IX grievance procedures solely based on the determination of whether sex discrimination occurred.
- The determination regarding responsibility becomes final either on the date that Penrose Academy provides the parties with the written determination of the result of any appeal, or, if no party appeals, the date on which an appeal would no longer be considered timely.

**Appeals:**

Penrose Academy will offer an appeal from a dismissal or determination whether sex-based harassment occurred on the following bases:

- Procedural irregularity that would change the outcome;
- New evidence that would change the outcome and that was not reasonably available when the determination or dismissal was made; and
- The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that would change the outcome.

If a party appeals a dismissal or determination whether sex-based harassment occurred, Penrose Academy will:

- Notify the parties in writing of any appeal, including notice of the allegations, if notice was not previously provided to the respondent;
- Implement appeal procedures equally for the parties;
- Ensure that the decisionmaker for the appeal did not take part in an investigation of the allegations or dismissal of the complaint;
- Ensure that the decisionmaker for the appeal has been trained consistent with the Title IX regulations;

- Communicate to the parties in writing that Penrose Academy will provide the parties a reasonable and equal opportunity to make a statement in support of, or challenging, the outcome; and
- Notify the parties in writing of the result of the appeal and the rationale for the result.

Any additional procedures or bases for appeal Penrose Academy offers will be equally available to all parties.

### **Informal Resolution**

In lieu of resolving a complaint through Penrose Academy's Title IX grievance procedures, the parties may instead elect to participate in an informal resolution process. Penrose Academy will inform the parties in writing of any informal resolution process it offers and determine what is appropriate, if any. Penrose Academy will not offer informal resolution to resolve a complaint when such a process would conflict with Federal, State, or local law. Before the initiation of an informal resolution process, Penrose Academy will explain in writing to the parties:

- The allegations;
- The requirements of the informal resolution process;
- That any party has the right to withdraw from the informal resolution process and initiate or resume grievance procedures at any time before agreeing to a resolution;
- That if the parties agree to a resolution at the end of the informal resolution process, they cannot initiate or resume grievance procedures arising from the same allegations;
- The potential terms that may be requested or offered in an informal resolution agreement, including notice that an informal resolution agreement is binding only on the parties; and
- What information Penrose Academy will maintain and whether and how Penrose Academy could disclose such information for use in Title IX grievance procedures if such procedures are initiated or resumed.

### **Disciplinary Sanctions and Remedies:**

Following a determination that sex-based harassment or other prohibited occurred, may impose disciplinary sanctions, which may include:

- Warning
- Early dismissal
- Suspension
- Termination of enrollment

Penrose Academy may also provide remedies, which may include:

- Leave of absence
- Schedule modifications
- Informal resolution

### **Supportive Measures:**

Penrose Academy will offer and coordinate supportive measures as appropriate for the complainant and/or respondent to restore or preserve that person's access to the Penrose Academy's education

program or activity or provide support during Penrose Academy's Title IX grievance procedures or during the informal resolution process.

Support measures cannot be unreasonably burdensome to a party and cannot be imposed for punitive or disciplinary reasons.

**Supportive measures may include:**

- Counseling resources
- Extensions of deadlines or other course-related adjustments
- Modifications of class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Leaves of absence
- Increased security and monitoring of certain areas of the campus

The Title IX Coordinator is responsible for ensuring effective implementation of any Remedies.

**RECORDKEEPING AND DOCUMENTATION**

Penrose Academy maintains documentation for each complaint and the actions taken in response to notices of sex discrimination for seven years.

**TITLE IX TERMS AND DEFINITIONS**

**Complainant means:**

- 1) A student or employee who is alleged to have been subjected to conduct that could constitute Title IX or its regulations; or
- 2) A person other than a student or employee who is alleged to have been subjected to conduct that could constitute sex discrimination under Title IX or its regulations and who was participating or attempting to participate in the recipient's education program or activity at the time of the alleged sex discrimination.

**Disciplinary sanctions** means consequences imposed on a respondent following a determination under Title IX that the respondent violated the recipient's prohibition on sex discrimination.

**Party** means a complainant or respondent.

**Relevant** means related to the allegations of sex discrimination under investigation as part of these grievance procedures. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

**Remedies** means measures provided, as appropriate, to a complainant or any other person the recipient identifies as having had their equal access to the recipient's education program or activity limited or denied by sex discrimination. These measures are provided to restore or preserve that person's access to the recipient's education program or activity after a recipient determines that sex discrimination occurred.

**Respondent** means a person who is alleged to have violated the recipient's prohibition on sex discrimination.

**Supportive Measures** means individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a complainant or respondent, not for punitive or disciplinary reasons, and without fee or charge to the complainant or respondent to:

- a) Restore or preserve that party's access to the recipient's education program or activity, including measures that are designed to protect the safety of the parties or the recipient's educational environment; or
- b) Provide support during the recipient's grievance procedures or during an informal resolution process.

**Retaliation** means intimidation, threats, coercion, or discrimination against any person by the recipient, a student, or an employee or other person authorized by the recipient to provide aid, benefit, or service under the recipient's education program or activity, for the purpose of interfering with any right or privilege secured by Title IX or its regulations, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the Title IX regulations.

### **Consent**

Consent is a knowing, voluntary, and mutual agreement among all participants to engage in sexual activity. It must be informed, freely given, and mutual. There is no consent if intimidation, threats, or physical force are used. If a person is mentally or physically incapacitated and cannot understand the situation, there is no consent. This includes incapacitation due to alcohol or drugs, or being asleep or unconscious, where the respondent knew or should have known the person was incapacitated. Inducing incapacitation to affect someone's ability to consent negates consent. Silence is not consent. Consent can be given through clear words or actions showing an affirmative, conscious decision to engage in the activity. Consent can be limited to specific activities and can be withdrawn at any time, meaning it must be ongoing throughout the encounter. The use of a position of influence over the other person may affect the determination of consent.

### **Days**

Days refers to business days, excluding weekends and holidays as per the Penrose Academy calendar or as designated by the President or Department Heads, unless stated otherwise.

### **Emergency Removal**

Penrose Academy may remove a respondent from an education program or activity on an emergency basis after a safety and risk analysis. This happens if there is an immediate threat to anyone's physical health or safety, including the respondent, due to allegations of Prohibited Conduct. The respondent will be given notice and an opportunity to challenge the decision immediately after the removal.

### **Formal Complaint**

A document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct (as defined herein) against a Respondent and requesting that the Penrose Academy investigate the allegation of Prohibited Conduct. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in one of Penrose Academy's programs or activities. A Formal Complaint filed by a Complainant may be a document or electronic submission (such as by e-mail or through an online portal) but must contain the Complainant's physical or digital signature or otherwise indicate that the Complainant is the person filing the Formal Complaint.